

1 Rene L. Valladares
Federal Public Defender
2 Nevada State Bar No. 11479
LARONDA MARTIN
3 Assistant Federal Public Defender
4 Missouri State Bar No. 42768
411 E. Bonneville Ave.
5 Las Vegas, Nevada 89101
(702) 388-6577
6 Laronda_Martin@fd.org
7 Attorney for Tyree Walker

8
9 **IN THE UNITED STATES DISTRICT COURT**
10 **DISTRICT OF NEVADA**

11
12 UNITED STATES OF AMERICA,
13 Plaintiff,
14 v.
15 TYREE WALKER,
16 Defendant.

Case No. 2:20-cr-00126-APG-VCF
Sentencing Memorandum

17 COMES NOW the Defendant, Tyree Walker, and submits this memorandum to support
18 his proposed sentence. He respectfully asks that the Court to follow the plea agreement, grant
19 a downward variance under 18 U.S.C. 3553(a), and impose a sentence of twenty-four (24)
20 months based on: (1) Mr. Walker's personal history; (2) absence of significant criminal history;
21 (3) low risk of re-offending; and (4) strong support of family and friends.
22

23 In light of the facts and circumstances of this case, which will be discussed at-length
24 below, said requested sentence "adequately reflects the seriousness of the offense, affords
25
26

adequate deterrence, promotes respect for the law, provides just punishment for the offense, and protects the public.”¹

I. Benefit of Plea Agreement

Mr. Walker should receive the benefit of the plea agreement. Public policy favors following plea agreements because they play a central role in the criminal justice system with roughly ninety-five percent (95%) of cases resolving in guilty pleas.² This plea agreement was the result of extensive negotiations by the parties after each weighed the strengths and weaknesses of their case and considered the factors under 18 U.S.C. § 3553(a). As such, this Court should allow Mr. Walker the benefit of his bargain by accepting the terms of the plea agreement.

///

II. Defense Counsel Certification

Undersigned counsel and Mr. Tyree Walker have reviewed the Presentence Investigation Report (PSR). Counsel has communicated the following position to the probation officer and Assistant United States Attorney in the form of a copy of this document.

III. The Sentencing Hearing

It is estimated that the sentencing hearing will take no more than one hour.

IV. Sentencing Factors in Dispute

A. Factual Corrections

There are no factual objections.

¹ See 18 U.S.C. § 3553(a) and (a) (2).

² *Class v. U.S.* 138 S.Ct. 798, 807 (2018).

B. Legal Corrections

There are no legal objections.

V. Position as to Sentencing and Recommendations

A. Incarcerating Tyree Walker for more than twenty-four (24) months will not serve the interests sought to be served under 18 U.S.C. § 3553(a).

A lengthy incarceration of Mr. Tyree Walker will not meet the goals of 18 U.S.C. § 3553 (a). Rather, to deter similar behavior in the future and promote respect for the law, Mr. Walker needs to be provided with supportive counseling and therapy to address his substance use and abuse concerns. He has accepted responsibility for his conduct and has turned away from criminal conduct and associations.

B. Tyree Walker's conduct was aberrant.

George's death wasn't like the others. It stuck. I think it was the offending officer's audacity that shook us. The nerve to murder someone in front of our eyes. It was his stubborn, unrelenting unwillingness to ease the pressure on Floyd's neck that stopped us in our tracks. His calm versus George's rising panic. It felt heartless. It was so heartless.³

George Floyd's murder in Minneapolis in May 2020 sparked one of the largest racial justices protests in the United States. Other countries around the world had some of their largest Black Lives Matters protests. These protests were also inspired by the video of Floyd's brutal death in police custody on May 25, 2020. Citizens of all races perceived this as a symbol of

³ *Policing's New Vulnerability Re-Envisioning Local Accountability in an Era of Global Outrage*. The British Journal of Criminology, 2022, 62 716-713 (citing) Smith, R. (2021), "Now There is Legal Justice for George Floyd. So Why Do I still Feel so Follow?", Vogue, April 21.

1 the intolerance and injustice they witness many face in their cities. When these protests were
2 ongoing, some of the protestors used violence while others were peaceful.

3 Albeit Mr. Walker's chosen method of protesting started peaceful, it did not end
4 peaceful. It was wrongful conduct. However, it may also be considered aberrant conduct.
5 Court's define aberrant behavior as conduct that was a single spontaneous or thoughtless act
6 that involved no planning.⁴ The planning portion is judged on a case-by-case basis.⁵
7

8 On May 31, 2020, there were many people protesting in the District of Nevada. Mr.
9 Walker says that he was with associates from the neighborhood. The protest started peaceful.
10 As they were walking, a female randomly hollered "let's blow it up" meaning for someone to
11 set a police vehicle on fire. Unfortunately, Mr. Walker and the others were under the influence
12 of marijuana. Their thought processes were clearly obstructed. Mr. Walker and associates
13 walked to a nearby gas station, obtained some gasoline, and returned to set the police vehicle
14 on fire.
15

16 Prior to the protesting, there had been no prior planning to commit a crime. No one
17 spent hours contemplating a method of burning or setting government vehicles on fire. This
18 was not part of an on-going criminal enterprise to destroy government property. The burning
19 of this police vehicle was a single spontaneous and thoughtless act conducted by those under
20 the influence of marijuana.
21
22

23
24 ⁴ *U.S. v. Lam*, 20 F.3d 999, 1003 (9th Cir. 1994).

25 ⁵ *Id.*
26

1 After a post-*Miranda* interview, Tyree Walker spoke with metro police and advised that
2 he had been influenced by the crowds at the protest and would not have committed the act on a
3 “regular day.”

4 Looking back on these actions, Mr. Walker, now, more than ever before, understands
5 the importance of carefully selecting friends and associates. Almost two years to the date of
6 the George Floyd incident, Tyree Walker wrote a letter⁶ to the Court. He expressed that he
7 realizes how serious this situation is.⁷ He has taken time to reflect on the last few years of his
8 life and focus more on reestablishing himself to become a better human being.⁸

9 Tyree Walker has no juvenile adjudications.⁹ He has only one misdemeanor
10 conviction.¹⁰ He received one (1) criminal history point for the conviction. He has no arson
11 related or violent related prior incidences or convictions. His Criminal History Category is I.
12 Aside from the instant offense, Mr. Walker has generally lived a law-abiding life. This vehicle
13 burning was an isolated mistake.
14

15 In determining a reasonable sentence, Mr. Walker requests the Court find his behavior
16 in the instant case aberrant conduct.
17
18
19

20 ⁶ Exhibit 1.

21 ⁷ *Id.*

22 ⁸ *Id.*

23 ⁹ PSR ¶ 45.

24 ¹⁰ PSR ¶ 46.

1 **C. Mr. Walker was raised from humble beginnings.**

2 Tyree Walker was born to the union of Cynthia Braud and Major Walker. Prior to this
3 father's death in 2019, they were close. He, his mother, and his siblings remain a close-knit
4 family. Tyree and his siblings were raised in a Christian and humble environment. Their
5 parents taught the importance of maintaining one's faith in God. Moreover, they demonstrated
6 good work ethics and asked their children to do the same.

7
8 His mother, Cynthia Braud, worked for Sam's Town for fifteen (15) years before finding
9 a new position with her current employer, The Venetian. His father, Major Walker, was
10 employed as a construction truck driver until his retirement. Tyree Walker has five siblings,
11 and all are currently employed. Like his family, Mr. Walker is no stranger to hard work. He
12 has been employed throughout most of his adult life. As a young person, he enrolled in
13 plastering, scaffolding set-up, and demolition construction classes while attending Sierra
14 Nevada Job Corps. As an adult, he has worked as a cashier, dishwasher, delivery driver,
15 sanitation worker, and general laborer. Mr. Walker has skills and will be able to utilize these
16 skills upon his release from the Bureau of Prisons to find future employment.

17
18 Tyree Walker will have the support of his family while in the Bureau of Prison and upon
19 his return to his community. His family believes in his potential.

20 **VI. Recidivism is Lower When Lengths of Incarceration and Supervised Release Are**
21 **Low.**

22 The United States Sentencing Commission studied recidivism shortly after the
23 enactment of the Sentencing Reform Act of 1984 (SRA).¹¹ They found that recidivism

24
25 ¹¹ Recidivism Among Federal Offenders: A Comprehensive Overview. United States Sentencing
26 Commission. March 2016.

1 information is central to three primary purposes of punishment.¹² These three purposes
 2 (specific deterrence, incapacitation, and rehabilitation) focus on the prevention of future
 3 crimes through correctional intervention.¹³

4 One area specifically covered in the study dealt with recidivism and the sentences
 5 imposed. Offenders with shorter lengths of imprisonment had lower recidivism rates.¹⁴ The
 6 highest recidivism rates were found among offenders with longer sentences.¹⁵

8 Long periods of incarceration are not deterrents. Twenty-four (24) months is a
 9 reasonable period of incarceration. Incarceration of Tyree Walker over a longer period is not
 10 a meaningful deterrent.

11 The National Institute of Justice also lists various things to consider about deterrence:

- 12 a. Sending an offender to prison isn't a very effective way to deter
 13 crime. Prisons are good for punishing criminals and keeping them
 14 off the street, but prison sentences are unlikely to deter future
 15 crimes. Prisons may have the opposite effect. Inmates learn more
 16 effective crime strategies from each other, and time spent in prison
 17 may desensitize many to the threat of future imprisonment.¹⁶
- b. Increasing the severity of punishment does little to deter crime.

18 ¹² *Id.*

19 ¹³ *Id.*

20 ¹⁴ *Id.*

21 ¹⁵ Recidivism Among Federal Offenders: A Comprehensive Overview. United States Sentencing
 22 Commission. March 2016.

23 ¹⁶ *Five Things About Deterrence*. National Institute of Justice. Strengthen Science. Advance Justice.
 24 July 2014.
 25
 26

1 Laws and policies designed to deter crime are ineffective partly
2 because criminals know little about the sanctions for specific
3 crimes.¹⁷

- 4 c. The certainty of being caught is a more powerful deterrent than
5 punishment. Research shows that if criminals think there's only a
6 slim chance they will get caught, the severity of punishment is an
7 ineffective deterrent to crime.¹⁸

8 **VII. Conclusion**

9 In fashioning an appropriate sentence for Mr. Walker, the Court should take note of
10 several additional factors. First, Mr. Walker has never been to prison and he will definitely be
11 going to the Bureau of Prisons (BOP). [This] prison term will mean more to him than to a
12 defendant previously imprisoned.¹⁹ The next twenty-four (24) months spent in the BOP will
13 be the longest period Tyree Walker has ever spent in custody or away from his mom, siblings,
14 family, and friends. He will likely feel a significant loss once separated from his family.
15 Tyree Walker will become intimately familiar with the deprivations of liberty and freedom
16 that accompany such incarceration. This spent caged will likely have a tremendous effect on
17 him and he will be more humbled by this experience with the law and the prison system.

18 Tyree Walker's federal conviction will result in a lifetime stain on his record. This
19 crime was conduct that was a single criminal occurrence that was committed without
20

21 ¹⁷ *Id.*

22 ¹⁸ *Id.*

23 ¹⁹ *U.S. Baker*, 445 F.3d 987, 992 (7th Cir. 2006).
24
25
26

1 significant planning, was of limited duration, and represented a marked deviation by Mr.
2 Walker from an otherwise law-abiding life. The likelihood that Tyree Walker will *ever* run
3 afoul of the law again is slim. He made a serious error in judgement and respectfully requests
4 the opportunity to atone for his mistake.

5 **WHEREFORE**, Tyree Walker prays this Court will consider his personal history,
6 absence of significant criminal history, low risk of re-offending, the circumstances of his
7 involvement, and strong support of family and friends, and the purposes of 18 U.S.C. § 3553(a)
8 in determining a reasonable sentence. A sentence of twenty-four (24) months is reasonable
9 and said sentence “adequately reflects the seriousness of the offense, affords adequate
10 deterrence, promotes respect for the law, provides just punishment for the offense, and protects
11 the public.”²⁰

12
13 DATED this 11th day of August, 2022.

14
15 **RESPECTFULLY SUBMITTED,**

16 **RENE L. VALLADARES**
17 **Federal Public Defender**

18 By:

/s/ LaRonda Martin

19 LARONDA MARTIN
20 Assistant Federal Public Defender
21 Attorney for Tyree Walker

22
23
24 ²⁰ See 18 U.S.C. § 3553(a) and (a) (2).
25
26

CERTIFICATE OF ELECTRONIC SERVICE

The undersigned hereby certifies that he is an employee of the Federal Public Defender for the District of Nevada and is a person of such age and discretion as to be competent to serve papers.

That on August 11, 2022, he served an electronic copy of the above and foregoing **Tyree Walker's Sentencing Memorandum** by electronic service (ECF) to the person named below:

JASON M. FRIERSON
United States Attorney
LISA CARTIER-GIROUX
Assistant United States Attorney
501 Las Vegas Boulevard, South
Suite 1100
Las Vegas, Nevada 89101

/s/ Marcus Walker

Employee of the Federal Public Defender